Q. You are seeking to sponsor a specialization program in the state, I believe?

A. It is in the process of implementation right now. The court has adopted a rule, and the Board of Specialization is going to be appointed, and that in itself will facilitate certain forms of limited information.

Q. And this, in your opinion, it would be proper and not a disservice to the public to permit lawyers to be known, for example, in the Yellow Pages classified by specialization, which would be recognized by the Bar; is that correct?

(42) A. True.

Q. And that is the kind of increasive (sic) advertising which you had meant to suggest would be a tolerable or even constructive, in your point of view?

A. Correct.

Q. Putting that aside now, that rather limited exception, if you regard advertising as incompatible with professional traditions and ideals, as I think you have just stated; why?

A. Well, we return to the point Mr. Canby asked me about early in cross-examination. I suppose this bears on each lawyer's own orientation. My father has been a member of the Bar for 54 years. He started his practice in Pittsburgh in 1922; had no immediate source of business; worked hard and developed what I regard as a very thriving practice, with all kinds of people with limited means, and never placed an ad in the newspaper and was, I think, busy, and served because of his reputation among the people he did serve.

When I came here, I didn't know a soul. Somehow, I think that -- we either have to make a choice, either we are going

to -- I don't think that treating the rendition of highly personal services and very personal situations can be dealt with in the same way that GEMCO sells toys to my kids and advertises specials on commodities.

(43) It may be, you know -- my views about this may prove to be incorrect, and the disciplinary authority in this state may overrule my views, but if they do, I don't think the profession will be able to continue to serve the people as it has for a good many years. I think that it will inevitably be rendering a kind of mass-produced, less personalized and less valuable kind of service.

I can draw some analogies from the medical profession, and the analogy isn't prompted by advertising on their part, but we see growing disenchantment of the medical profession, because of the increasing impersonal nature of the relationship between doctor and patient. The doctor

is somebody who the patient sees, because h was referred by another doctor. He doesn't have any kind of a one-to-one relationship with the patient; he's just a body of being dealt with by the doctor.

It seems to me that if the legal profession ends up treating clients essentially as nonentities that we won't be professionals. We can't adhere to the same tradition of integrity. You don't have the same sense of identity with your client. You can't possibly advocate your client, because with so much conviction -- I heard an explanation of how a legal clinic works. I think the legal clinic has a role in our society. One of the things that I haven't sorted out in my mind that I am concerned (44) about is that spector (sic) of about 30 prospective divorce clients in a waiting room with a lawyer giving them all a set speech before they go to court to get their default divorce. You know, I find that difficult to equate

with the notion of a professional person who is trying to deal exhaustively for his client's cause. I think it's difficult to understand one client's problem and deal with it responsibly on a given day, and then trying to deal with 30 and adhere to those traditions seems to me to be an impossible objective.

MR. FRANK: I have nothing further.

EXAMINATION

BY MR. CANBY:

Q. Does the Bar now monitor the practice of lawyers, or does it wait for a Complaint concerning incompetence or those serious injuries that were listed, cases, like the ones you listed, your summary?

A. Well, basically, it waits for Complaints, except in those instances where the problem is a matter of public record. Those Complaints which are typically initiated by the Board of Governors are matters which come to our attention, because

of their references in the newspaper.

Q. You don't have a regular monitoring system for competence or anything?

(45) A. No, no.

Q. You said that you undertake a certain amount of free work. Do you ever quote a client a fee, and then discover that the case is really going to take a good deal more work than you had anticipated?

Has this ever happened to you?

A. Not since my first year in law practice.

Q. Well, when that happened in your first year in law practice, what did you do?

A. I took a loss.

Q. In other words, you did the work in a competent fashion, even though you were exceeding what you could charge?

A. Yes. If the client -- I can't recall specific cases -- but if the client

was not in a position to pay an increased fee, when I had discovered that I had underestimated the size and complexity of the project, and, of course, I attempted to complete it with as much competence as I quoted correctly. But the reason it hasn't happened since the first year, I recognize that I couldn't continue to exist by having taken excess losses and still competent work.

Q. You can't take a loss on every case?

A. Even on a substantial number of cases.

Q. You did testify you do a certain amount of free (46) work, or your firm does, and so on?

A. Correct.

Q. A true professional, then, may be able to do work even though it's not necessarily related to the price that that particular individual case involves for him?

A. A true professional can do high-

quality work for nothing, as long as he is controlling the quanitity of such work.

Q. Right. Do you know whether it is the practice in this state at all for lawyers to quote prices, perhaps even when a client calls and inquires by telephone as to certain kinds of services?

A. Bill, I'm sure that some lawyers do that. I will not quote a fee over the telephone. In fact, I wouldn't even quote, since my first year or second year, a set fee. I will try -- well, I'm not answering your question.

I think that some lawyers probably do quote fees.

Q. All these problems that you mentioned in the Bar, of course, exist now apart from advertising. You had no advertising cases in that list of problems that were taken?

A. No clear-cut cases, that's right.

Q. You mentioned that you can advertise

-- perhaps you might take the position you can advertise specialities perhaps in the Yellow Pages or something. You can also (47) advertise in reputable law lists; can't you?

A. True.

Q. Who uses these law lists?

Where do they go?

What is the readership of these?

A. Primarily, lawyers. They are in a good many public libraries; a number of banks; other large institutions have them, but primarily they are used by lawyers.

Q. Is there any charge or fee involved with the Bar Association?

Is the ABA, to your knowledge, on any of these law lists?

A. It's my understanding that in order to be approved as a reputable law list, you have to submit evidence that you meet certain criteria which has been established by the ABA Standing Committee on Law Lists, and pay

a fee.

I don't know exactly what the criteria are and I don't know what the fee is, but I think that's essentially true.

Q. If an attorney advertises a service at a given price, and he performs the service at that given price competently, he is not being false or misleading to his client, is he?

(48) A. No.

Q. The theory of the prepaid legal service plans, where we have a schedule of benefits, must suppose that occasional cases are going to exceed what the client will pay and most others will not; is that correct?

THE WITNESS: Would you read the question back?

(Question read by reporter.)

A. I think that's probably a fair statement.

I'm trying to recall, Bill -- I have

the feeling there may be certain escape valves, if you will, in the prepaid legal service plan, but I just don't know what they are right now. That's why I referred you to the document, when you were touching on this earlier.

Q. All right. Consequently, if there is a fixed schedule of fees, there is some spreading of price between the cases for the occasional case that will still be listed as a described benefit, but will turn out to be a little more complicated than most; right?

A. If your supposition is correct, I would say that's true.

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BAR EXHIBIT NO. 6

ADVERTISEMENT

DO YOU NEED A LAWYER?

LEGAL SERVICES AT VERY REASONABLE FEES

- **Divorce or legal separation--uncontested [both spouses sign papers]**

  $175.00 plus $20.00 court filing fee

- **Preparation of all court papers and instructions on how to do your own simple uncontested divorce**

  $100.00

- **Adoption--uncontested severance proceeding**

  $225.00 plus approximately $10.00 publication cost

- **Bankruptcy--non-business, no contested proceedings**

  Individual
  $250.00 plus $55.00 court filing fee

  Wife and Husband
  $300.00 plus $110.00 court filing fee

- **Change of Name**

  $95.00 plus $20.00 court filing fee

Information regarding other types of cases furnished on request

Legal Clinic of Bates & O'Steen
617 North 3rd Street
Phoenix, Arizona 85004
Telephone [602] 252-8888

BAR EXHIBIT NO. 7

RESTATEMENT OF THE CODE OF PROFESSIONAL ETHICS CONCEPTS OF PROFESSIONAL ETHICS RULES OF CONDUCT INTERPRETATIONS OF RULES OF CONDUCT

BY: AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

The Rules of Conduct contained in this booklet will, upon adoption become effective on March 1, 1973.

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(1)

INTRODUCTION

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This document consists of three parts. The first part, the Concepts of Professional Ethics, is a philosophical essay approved by the Division of Professional Ethics. It is not intended to establish enforceable standards since it suggests behavior beyond what is called for in the Rules of Conduct.

The second part, the Rules of Conduct, consists of enforceable ethical stan-

dards and requires the approval of the membership before the Rules would become effective. It is printed on colored pages to facilitate identification.

The third part, Interpretations of Rules of Conduct, consists of interpretations which have been adopted by the Division of Professional Ethics to take the place of the present Opinions of the Ethics Division upon adoption of the restated Rules of Conduct.

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(5)

CONCEPTS OF PROFESSIONAL ETHICS

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(14)

OTHER RESPONSIBILITIES AND PRACTICES

A certified public accountant should conduct himself in a manner which will enhance the stature of the profession and its ability to serve the public.

* * * *

Solicitation to obtain clients is prohibited under the Rules of Conduct because it tends to lessen the professional independence toward clients which is essential to the best interest of the public. It may also induce an unhealthy rivalry within the profession and thus lessen the cooperation among members which is essential to advancing the state of the art of accounting and providing maximum service to the public.

Advertising, which is a form of solicitation, is also prohibited because it could encourage representations which might mislead the public and thereby reduce or destroy the profession's usefulness to society. However, a CPA should seek to establish a reputation for competence and character, and there are many acceptable (15) means by which this can be done. For example, he may make himself known by public service, by civic and political activi-

ties, and by joining associations and clubs. It is desireable for him to share his knowledge with interested groups by accepting requests to make speeches and write articles. Whatever publicity occurs as a natural by-product of such activities is entirely proper. It would be wrong, however, for the CPA to initiate or embellish publicity.

Promotional practices, such as solicitation and advertising, tend to indicate a dominant interest in profit. In his work, the CPA should be motivated more by desire for excellence in performance than for material reward. This does not mean that he need be indifferent about compensation. Indeed, a professional man who cannot maintain a respectable standard of living is unlikely to inspire confidence or to enjoy sufficient peace of mind to do his best work.

In determining fees, a CPA may assess the degree of responsibility assumed by

undertaking an engagement as well as the time, manpower and skills required to perform the service in conformity with the standards of the profession. He may also take into account the value of the service to the client, the customary charges of professional colleagues and other considerations. No single factor is necessarily controlling.

Clients have a right to know in advance what rates will be charged and approximately how much an engagement will cost. However, when professional judgments are involved, it is usually not possible to set a fair charge until an engagement has been completed. For this reason CPA's should state their fees for proposed engagements in the form of estimates which may be subject to change as the work progresses.

Other practices prohibited by the Rules of Conduct include using any firm designation or description which might be mislead-

ing, or practicing as a professional corporation or association which fails to comply with provisions established by Council to protect the public interest.

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(18)

RULES OF CONDUCT

In the footnotes below, the references to specific rules or numbered Opinions indicate that revised sections are derived therefrom; where modifications have been made to the present rule or Opinion, it is noted. The reference to "prior rulings" indicates a position previously taken by the ethics division in response to a specific complaint or inquiry, but not previously published. The reference to "new" indicates a recommendation of the Code of Restatement Committee not found in the present Code or prior rulings of the ethics division.

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(24)

RULE 502 -- SOLICITATION AND ADVERTISING

A member shall not (25) seek to obtain clients by solicitation.[35] Advertising is a form of solicitation and is prohibited.[36]

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35 Rule 3.02.

36 Rule 3.01.

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(31)

INTERPRETATIONS OF RULES OF CONDUCT

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(37)

INTERPRETATIONS UNDER RULE 502 -- SOLICITATIONS AND ADVERTISING

502-1 -- Announcements. Publication in a newspaper, magazine or similar medium of an announcement or what is technically known as a "card" is prohibited.[55] Also prohibited is the issuance of a press release regarding firm mergers, opening of

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55 Rule 3.01.

new offices, change of address or admission of new partners.[56]

Announcements of such changes may be mailed to clients and individuals with whom professional contacts are maintained, such as lawyers and bankers.[57] Such announcements should be dignified and should not refer to fields of specialization.[58]

502-2 -- Office premises. Listing of the firm name in lobby directories of office buildings and on entrance doors solely for the purpose of enabling interested parties to locate an office is permissible.(38) The listing should be in good taste and modest in size.[59]

The indication of a specialty such as

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56 Opinion No. 9 (4)

57 Opinion No. 11 (1a) (qualifying phrase, "lawyers of clients", is dropped).

58 Opinion No. 11 (1b)

59 Opinion No. 11 (5a)

"income tax" in such listing constitutes advertising.[60]

502-3 -- Directories: telephone, classified and trade association. A listing in a telephone, trade association, membership or other classified directory shall not:

1. Appear in a box or other form of display, or in a type of style which differentiates it from other listings in the same directory.[61]

2. Appear in more than one place in the same classified directory.

3. Appear under a heading other than "Certified Public Accountant" or "Public Accountant" where the directory is classified by type of business occupation or service.[62]

4. Be included in the yellow pages

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60 Opinion No. 11 (5b)

61 Opinion No. 11 (2a)

62 Opinion No. 11 (2a(2))

or business section of a telephone directory unless the member maintains a bona fide office in the geographic area covered. Determination of what constitutes an "area" shall be made by referring to the positions taken by state CPA societies in the light of local conditions.[63]

Such listing may:

1. Include the firm name, partners' names, professional title (CPA), address and telephone number.[64]

2. Be included under both the geographical and alphabetical section where the directory includes such sections.[65]

502-4 -- Business stationery. A member's stationery should be in keeping with the dignity of the profession and not list any specialty.[66]

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63 Opinion No. 11 (2b)

64 Opinion No. 11 (2a(1))

65 Opinion No. 11 (2c(2))

66 Opinion No. 11 (3a)

The stationery may include the firm name, address and telephone number, names of partners, names of deceased partners and their years of service, names of professional staff when pre-(39)ceded by a line to separate them from the partners, and cities in which other offices and correspondents or associates are located.[67] Membership in the Institute or state CPA society or associated group of CPA firms whose name does not indicate a specialty may also be shown.[68] In the case of multi-office firms, it is suggested that the words, "offices in other principal cities" (or other appropriate wording) be used instead of a full list of offices.[69] Also, it is preferable to list only the names of partners resident in the office for which the

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67 Opinion No. 11 (3b(1 and 2))

68 New

69 Opinion No. 11 (3c)

stationery is used.[70]

502-5 -- Business cards. Business cards may be used by partners, sole practitioners and staff members. They should be in good taste and should be limited to the name of the person presenting the card, his firm name, address and telephone number(s), the words "Certified Public Accountant(s)," or "CPA" and such words as "partner", "manager" or "consultant" but without any specialty designation.[71]

Members not in the practice of public accounting may use the title "Certified Public Accountant" or "CPA" but shall not do so when engaged in sales promotion, selling or similar activities.[72]

502-6 -- Help wanted advertisements. A member shall not include his name in help-

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70 Opinion No. 11 (3c)

71 Opinion No. 11 (4a)

72 Opinion No. 11 (4b)

wanted or situations-wanted display advertising on his own behalf or that of others in any publication. In display advertising, the use of a telephone number, address, or newspaper box number is permissible.[73]

In classified advertisements other than display, the member's name should not appear in boldface type, capital letters or in any other manner which tends to distinguish the name from the body of the advertisement.[74]

502-7 -- Firm publications. Newsletters, bulletins, house organs, recruiting brochures and other firm literature on accounting and related business subjects prepared and distributed by a firm for (40) the information of its staff and clients serve a useful purpose. The distribution of such material outside the firm must be properly controlled and should be restricted to clients and

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73 Opinion No. 11 (6a)

74 Opinion No. 11 (6b)

individuals with whom professional contacts are maintained, such as lawyers and bankers.[75] Copies may also be supplied to job applicants, to students considering employment interviews,[76] to nonclients who specifically request them and to educational institutions.[77]

If requests for multiple copies are received and granted, the member and his firm are responsible for any distribution by the party to whom they are issued.[78]

502-8 -- Newsletters and publications prepared by others. A member shall not permit newsletters, tax booklets or similar publications to be imprinted with his firm's name if they have not been prepared by his

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75 Opinion No. 9 (1) (qualifying phrase, "lawyers of clients," is dropped).

76 New.

77 Opinion No. 9 (1)

78 Opinion No. 9 (1)

firm.[79]

502-9 -- Responsibility for publisher's promotional efforts. It is the responsibility of a member to see that the publisher or others who promote distribution of his writing, observe the boundaries of professional dignity and make no claims that are not truthful and in good taste. The promotion may indicate the author's background including, for example, his education, professional society affiliations and the name of his firm,[80] the title of his position and principal activities therein.[81] However, a general designation referring to any specialty, such as "tax expert" or "tax consultant" may not be used.[82]

502-10 -- Statements and information

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79 Opinion No. 1

80 Opinion No. 4.

81 New.

82 Opinion No. 5.

to the public press. A member shall not directly or indirectly cultivate publicity which advertises his or his firm's professional attainments or services. He may respond factually when approached by the press for information concerning his firm, but he should not use press inquiries as a means of aggrandizing himself or his firm or of advertising professional attainments or services. When interviewed by a writer or reporter, he is charged with the knowledge that he (41) cannot control the journalistic use of any information he may give and should notify the reporter of the limitations imposed by professional ethics.[83]

Releases and statements made by members on subjects of public interest which may be reported by the news media, and publicity not initiated by a member such as that which

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83 Restatement of Opinion No. 9 (4).

may result from public service activities, are not considered advertising. However, press releases concerning internal matters in a member's firm are prohibited.

502-11 -- Participation in educational seminars. Participation by members in programs of educational seminars, either in person or through audiovisual techniques, on matters within the field of competence of CPA's is in the public interest and is to be encouraged. Such seminars should not be used as a means of soliciting clients. Therefore, certain restraints must be observed to avoid violation of the spirit of Rule 502 which prohibits solicitation and advertising. For example, a member or his firm should not:

1. Send announcements of a seminar to nonclients or invite them to attend. However, educators may be invited to attend to further their education.

2. Sponsor, or convey the impression

that he is sponsoring, a seminar which will be attended by nonclients. However, a member or his firm may conduct educational seminars solely for clients and those serving his clients in a professional capacity, such as bankers and lawyers.

In addition, when a seminar is sponsored by others and attended by nonclients, a member or his firm should not:

1. Solicit the opportunity to appear on the program.

2. Permit the distribution of publicity relating to the member or his firm in connection with the seminar except as permitted under Interpretation 502-9.

3. Distribute firm literature which is not directly relevant to a subject being presented on the program by the member or persons connected with his firm.[84]

502-12 -- Solicitation of former

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84 Opinion No. 21

clients. Offers by a member to provide services after a client relationship has been clearly termin-(42)ated, either by completion of a nonrecurring engagement or by direct action of the client, constitute a violation of Rule 502 prohibiting solicitation.[85]

502-13 -- Soliciting work from other practitioners. Rule 502 does not prohibit a member in the practice of public accounting from informing other practitioners of his availability to provide them or their clients with professional services. Because advertising comes to the attention of the public, such offers to other practitioners must be made in letter form or by personal contact.[86]

502-14 -- Fees and professional standards. The following statement is required

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85 Restatement of Opinion No. 20

86 Restatement of Opinion No. 7

to be published with the Code of Professional Ethics pursuant to the Final Judgment in the court decision referred to below:

The former provision of the Code of Professional Ethics prohibiting competitive bidding, Rule 3.03, was declared null and void by the United States District Court for the District of Columbia in a consent judgment entered on July 6, 1972, in a civil antitrust suit brought by the United States against the American Institute. In consequence, no provision of the Code of Professional Ethics now prohibits the submission of price quotations for accounting services to persons seeking such services; and such submission of price quotations is not an unethical practice under any policy of the Institute. To avoid misunderstanding it is important to note that otherwise unethical conduct (e.g., advertising, solicitation, or substandard work)

is subject to disciplinary sanctions regardless of whether or not such unethical conduct is preceded by, associated with, or followed by a submission of price quotations for accounting services. Members of the institute should also be aware that neither the foregoing judgment nor any policy of the Institute affects the obligation of a certified public accountant to obey applicable laws, regulations or rules of any state or other governmental authority.[87]

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87 New.

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BAR EXHIBIT NO. 8

ARIZONA STATE BOARD OF ACCOUNTANCY

RULES AND REGULATIONS

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(14)

IX. RULES OF PROFESSIONAL CONDUCT

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(19)

OTHER RESPONSIBILITIES AND PRACTICES:

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(2) Solicitation and Advertising: A certified public accountant or a public accountant shall not seek to obtain clients by solicitation. Advertising is a form of solicitation and is prohibited.

(a) Announcements: Publication in a newspaper, magazine or similar medium of an announcement or what is technically known as a "card" is prohibited. Also prohibited is the issuance of a press release regarding firm mergers, opening of new offices, change of address or admission of new partners. Announcements of such changes may be mailed to clients and individuals with whom professional contacts are maintained, such as lawyers and bankers. Such announcements should be dignified and should not refer to fields of specialization.

(b) Office Premises: Listing of the

firm name in lobby directories of office buildings and on entrance doors solely for the purpose of enabling interested parties to locate an office is permissible. The listing should be in good taste and modest in size. The indication of a specialty such as "income tax" in such listing constitutes advertising.

(c) Directories: Telephone, Classified and Trade Association: A listing in a telephone, trade association, membership or other classified directory may include the firm name, partners' names, professional title (CPA or PA), address and telephone number. A listing may be included under both the geographical and alphabetical section where the directory includes such sections. In no event shall the listing:

(20) (i) Appear in a box or other form of display, or in a type or style which differentiates it from

other listings in the same directory.

(ii) Appear in more than one place in the same classified directory.

(iii) Appear under a heading other than "certified public accountant" or "public accountant" where the directory is classified by type of business occupation or service.

(iv) Be included in the yellow pages or business section of a telephone directory unless the certified public accountant or public accountant maintains a bona fide office in the geographic area covered by the directory.

(d) Business Stationery: A certified public accountant's or public accountant's stationery should be in keeping with the dignity of the profession and not list any specialty. The stationery may include the

firm name, address and telephone number, names of partners, names of deceased partners and their years of service, names of professional staff when preceded by a line to separate them from the partners, and cities in which other offices and correspondents or associates are located. Membership in the institute or state certified public accountant society or associated group of certified public accountant firms whose name does not indicate a specialty may also be shown.

(e) Business Cards: Business cards may be used by partners, sole practitioners, and staff members. They should be in good taste and should be limited to the name of the person presenting the card, his firm name, address and telephone number(s), the words "Certified Public Accountant(s)," "Public Accountant(s)," "CPA", "PA", and such words as "Partner," "Manager" or "Consultant" but without any specialty designa-

tion.

Certified public accountants or public accountants not in the practice of public accounting may use the title "Certified Public Accountant" or "CPA", "Public Accountant" or "PA" on business cards or otherwise but shall not do so when engaged in sales promotion, selling or similar activities.

(f) Help Wanted Advertisements: A certified public accountant or a public accountant shall not include his name in help-wanted or situations-wanted display advertising on his own behalf or that of others in any publica-(21)tion. In display advertising, the use of a telephone number, address, or newspaper box number is permissible.

In classified advertisements the name of the certified public accountant or public accountant should not appear in boldface type, capital letters or in any

other manner which tends to distinguish the name from the body of the advertisement.

(g) Firm Publications: Newsletters, bulletins, house organs, recruiting brochures and other firm literature on accounting and related business subjects prepared and distributed by a firm for the information of its staff and clients serve a useful purpose. The distribution of such material outside the firm must be properly controlled and should be restricted to clients and individuals with whom professional contacts are maintained, such as lawyers and bankers.

Copies may also be supplied to job applicants, to students considering employment interviews, to nonclients who specifically request them and to educational institutions.

If requests for multiple copies are received and granted, the certified public

accountant or public accountant and his firm are responsible for any distribution by the party to whom they are issued.

(h) Newsletters and Publications Prepared by Others: A certified public accountant or public accountant shall not permit newsletters, tax booklets or similar publications to be imprinted with his firm's name if they have not been prepared by his firm.

(i) Responsibility for Publisher's Promotional Efforts: It is the responsibility of the certified public accountant or public accountant to see that the publisher or others who promote distribution of his writing, observe the boundaries of professional dignity and make no claims that are not truthful and in good taste. The promotion may indicate the author's background, including, for example, his education, professional society affiliations and the name of his firm, the title

of his position and principal activities therein. However, a general designation referring to any specialty, such as "Tax Expert" or "Tax Consultant" may not be used.

(j) Statements and Information to the Public Press: A certified public accountant or public accountant shall not directly or indirectly cultivate publicity which advertises his or his firm's professional attainments or services. He may respond factually when approached by the press for in-(22)formation concerning his firm, but he should not use the press inquiries as a means of aggrandizing himself or his firm or of advertising professional attainments or services. When interviewed by a writer or reporter, he is charged with the knowledge that he cannot control the journalistic use of any information he may give and should notify the reporter of the limitations imposed by

professional ethics.

Releases and statements made by certified public accountants or public accountants on subjects of public interest which may be reported by the news media, and publicity not initiated by the certified public accountant or public accountant such as that which may result from public service activities, are not considered advertising. However, press releases concerning internal matters in a certified public accountant's or public accountant's firm are prohibited.

(k) Participation in Educational Seminars: Participation by certified public accountants or public accountants in programs of educational seminars, either in person or through audio-visual techniques, on matters within the field of competence of certified public accountants or public accountants is in the public interest and is to be encouraged. Such

seminars should not be used as a means of soliciting clients. Therefore, certain restraints must be observed to avoid violation of the spirit of Rule 9-E(2) which prohibits solicitation and advertising. For example, a certified public accountant or public accountant should not:

(i) Send announcements of a seminar to nonclients or invite them to attend. However, educators may be invited to attend to further their education.

(ii) Sponsor, or convey the impression that he is sponsoring, a seminar which will be attended by nonclients. However, a certified public accountant or public accountant may conduct educational seminars solely for clients and those serving his clients in a professional capacity such as bankers and lawyers.

In addition, when a seminar is sponsored by others and attended by nonclients, a certified public accountant or public accountant should not:

(iii) Solicit the opportunity to appear on the program.

(iv) Permit the distribution of publicity relating to the certified public accountant or public accountant in connection with the seminar except as permitted under Rule 9-E (2)(i).

(23) (v) Distribute firm literature which is not directly relevant to a subject being presented on the program by the certified public accountant or public accountant or persons connected with his firm.

(l) Solicitation of Former Clients: Offers by a certified public accountant or public accountant to provide services after a client relationship has been clearly ter-

minated, either by completion of a nonrecurring engagement or by direct action of the client, constitute a violation of this rule.

(m) Soliciting Work from Other Practitioners: This rule does not prohibit a certified public accountant or public accountant from informing other practitioners of the availability to provide them or their clients with professional services. Because advertising comes to the attention of the public, such offers to other practitioners must be made in letter form or by personal contact.

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BAR EXHIBIT NO. 9

ETHICAL STANDARDS OF THE

ACCOUNTING PROFESSION

BY: JOHN L. CAREY AND

WILLIAM O. DOHERTY

American Institute of Certified

Public Accountants

(47)

* * * *

SEC. 29 -- ADVERTISING

The general prohibition against advertising is accepted today without much question. To be sure, there is nothing illegal or immoral about advertising as such, but it is almost universally regarded as unprofessional.

Younger accountants are sometimes tempted to advertise or solicit, and they may suspect that the rules are a result of a conspiracy among their older colleagues to protect themselves against new competition.

Actually the rule against advertising has many sound reasons to support it. In the first place, advertising would not benefit the young practitioner. If it were generally permitted, the larger, well-established firms could afford to advertise on a scale that would throw the young practitioner wholly in the shade. Secondly,

advertising is commercial. Professional accounting service is not a tangible product to be sold like any commodity. Its value depends on the knowledge, skill and (48) honesty of the CPA. Who would be impressed with a man's own statement that he is intelligent, skillful and honest? Lastly, advertising does not pay. The accountants in the early days who tried it agreed for the most part that it did not attract clients.

Rule 3.01 of the Institute's Code of Professional Ethics forbids advertising. It reads as follows:

A member or associate shall not advertise his professional attainments or services.

Publication in a newspaper, magazine or similar medium of an announcement or what is technically known as a card is prohibited.

A listing in a directory is restricted

to the name, title, address and telephone number of the person or firm, and it shall not appear in a box, or other form of display or in a type or style which differentiates it from other listings in the same directory. Listing of the same name in more than one place in a classified directory is prohibited.

SEC. 30 -- CLASS OF SERVICE

Nothing is said in Rule 3.01 about the inclusion of descriptions on letterheads or elsewhere of classes of services rendered, such as audits, taxes, and systems. The committee on professional ethics, on the assumption that most people are aware of the usual services performed by CPA's, has interpreted Rule 3.01 to prohibit the association with a member's name of designations indicating special skills or the particular services he is prepared to render.* Previously, the American In-

* Opinion No. 11, page 20

stitute had agreed that a member should be prohibited from describing himself as a "tax consultant" or "tax expert" or from using any similar self-designation in the field of taxation.**

** Opinion No. 5, page 193.

* * * *

BAR EXHIBIT NO. 10

* * * *

AMENDED DISCIPLINARY RULE

On February 17th, 1976, the House of Delegates of the American Bar Association amended Disciplinary Rule 2-102(A)(6) to read as follows:

(New material italicized; deleted material bracketed):

TEXT OF THE AMENDED DISCIPLINARY RULE

As adopted, it amends D.R. 2-102 (A) (5) and (6), the principal amendment being of 2-102(A) (6), which enumerates listable information and which now reads (new material italicized; deleted material bracketed):

(6) A listing in a reputable law list, [or] legal directory, a directory published by a state, county or local bar association, or the classified section of telephone company directories giving brief biographical and other informative data. A law list or any directory is not reputable if its management or contents are likely to be misleading or injurious to the public or to the profession. A law list or any directory is conclusively established to be reputable if it is certified by the American Bar Association as being in compliance with its rules and standards. The published data may include only the following: name, including name of law firm and names of professional associates; addresses and telephone numbers; one or more fields of law in which the lawyer or law firm concentrates[;], a statement that practice is limited to one or more fields of law [;], or a statement that the lawyer

or law firm specializes in a particular field of law or law practice, to the extent permitted by the authority having jurisdiction under state law over the subject and in accordance with rules prescribed by that authority; [but only if authorized under DR 2-105(A) (4)] date and place of birth; date and place of admission to the bar of state and federal courts; schools attended, with dates of graduation, degrees, and other scholastic distinctions; public or quasi-public offices; military service; posts of honor; legal authorships; legal teaching positions; memberships, offices, committee assignments, and section memberships in bar associations; memberships and offices in legal fraternities and legal societies; technical and professional licenses; memberships in scientific, technical and professional associations and societies; foreign language ability; names and addresses of references, and, with their

consent, names of clients regularly represented[.]; whether credit cards or other credit arrangements are accepted; office and other hours of availability; a a statement of legal fees for an initial consultation or the availability upon request of a written schedule of fees or an estimate of the fee to be charged for the specific services; provided, all such published data shall be disseminated only to the extent and in such format and language uniformly applicable to all lawyers, as prescribed by the authority having jurisdiction by state law over the subject.

* * * *

RESPONDENTS EXHIBIT NO. 11

[TEXT: LETTER

TO ARIZONA STATE

BOARD OF ACCOUNTANCY]

* * * *

Gentlemen:

As your legal representative we feel

it is our obligation to write concerning a matter about which the Attorney General has given you advice several times over the past years. Because of recent legal developments , the advice rendered to you by this office on this matter on previous occasions is no longer applicable.

[Prior Opinions]

We refer in particular to Rule 9-E (6), now designated as A.C.R.R. R4-1-56. E.6 of the Arizona State Board of Accountancy Rules and Regulations. This Rule prohibits competitive bidding by Certified Public Accountants on the ground that it is not in the public interest, is a form of solicitation and is unprofessional. The anticompetitive effect of the rule is clear. There is no doubt that it would violate the federal and state antitrust laws if adopted by private individuals. The only remaining issue is the effect of Rule R4-1-56.E.6 on that conclusion. On July 25, 1966, the

Attorney General rendered an opinion at your request concluding that the predecessor to Rule R4-1-56.E.6 had the effect of law since its promulgation was within the authority of the State Board of Accountancy and that the rule did not conflict with the anti-trust law of the State of Arizona. See Opinion No. 66-29L [1966 TRADE CASES ¶71,880]. On May 7, 1971, this office wrote you a letter stating that the Board's rule against competitive bidding did not violate either the federal or state antitrust laws. Basically, the letter confirmed Attorney General Opinion No. 66-29-L. Finally, on January 2, 1974, the Attorney General approved and certified this Rule which was adopted by the Arizona State Board of Accountancy on December 27, 1973.

[Court Decisions]

Because of recent legal developments,

Rule R4-1-56.E.6 is unlawful under the federal and Arizona antitrust laws, and is void and beyond the scope of the Board's authority. The two most important developments involve actions by the United States Supreme Court and the Arizona Legislature. Many years ago the United States Supreme Court held that certain types of activities were immune from the federal antitrust laws if those activities were authorized by a state pursuant to a valid exercise of its police powers. Parker v. Brown [1940-1943 TRADE CASES ¶56,250], 317 U.S. 341 (1943). There was much confusion and debate, however, over the nature and extent of the state action that was required in order to produce immunity. On June 16, 1975, the United States Supreme Court finally dealt with this problem again and some of the confusion has been clarified. In Goldfarb v. Virginia State Bar [1975-1 TRADE CASES

¶60,355, 95 S. Ct. 2004 A.R.S. §32-703 (A) has delegated power to the Accountancy Board to adopt "rules of conduct appropriate to establish and maintain a high standard of integrity and dignity in public accounting," that statute is not sufficient to satisfy the requirements delineated by the Supreme Court in Goldfarb. Although the Virginia Legislature had empowered the Supreme Court of Virginia to regulate the conduct of the legal profession, the United States Supreme Court found no immunity from federal antitrust prosecution since there was no state statute referring specifically to fees. That situation is analogous to the one presented by A.R.S. §32-703 (A). Neither that statute nor any other provision of the statutes dealing with accountancy refer specifically to the prices charged by Certified Public Accountants; nor do they manifest a clear intention of the Arizona Legislature to abandon compe-

tition in the provision of accountancy services. Thus, Rule R4-1-56.E.6 would not provide immunity from federal antitrust prosecution and is therefore unlawful and void. Moreover, Rule R4-1-56.E.6. is also unlawful under the Arizona Antitrust Law, A.R.S. §§44-1401 et. seq. if the state action doctrine, as clarified by the United States Supreme Court in Goldfarb, is applied to resolve conflict between the Arizona Antitrust Law and Rule R4-1-56.E.6.

However, it is likely that a narrower doctrine should be used to resolve the latter conflict. The state action doctrine was developed in the context of conflicts between the federal antitrust laws and exercises of state police power. Because of the considerations of federalism it would seem appropriate to allow a certain measure of latitude to states in the exercise of their police powers absent any constitutional objection. These considera-

tions are not present in an attempt to resolve a conflict between the Arizona Antitrust Law and another act of the Arizona Legislature or regulation of a state agency. The problem there is simply a conflict between the legislative expressions of one body, and the problem is one of determining the intent of the Legislature as to which statute ought to control. Normally when a legislature wishes to create an exemption from the antitrust laws it enacts an express immunity provision as part of the antitrust law or, more commonly, as part of the particular regulatory scheme.

[New State Antitrust Law]

In the Spring of 1974, the Arizona Legislature enacted the present Antitrust Law. A.R.S. §§ 44-1401 to 44-1413. Its actions at that time are very pertinent in regard to the question of whether Rule R4-1-56.E.6 affects the application of the

Arizona Antitrust Law to the activities of accountants. In the Senate Judiciary Committee a broad general amendment was offered that would have created an exemption from the Arizona Antitrust Law because of Rule R4-1-56.E.6. That amendment was rejected. Moreover, the Senate Judiciary Committee did accept and the full Legislature enacted several provisions granting exemption from the Arizona Antitrust Law because of the regulatory power and activities of particular state agencies. See, e.g., A.R.S. §40-286. (Public service corporations holding certificates of Public Convenience and Necessity granted by the Arizona Corporation Commission.) In total five express exemptions in separate statutes and one limited express exemption in the antitrust law itself (A.R.S. §44-1404) were enacted when the current Arizona Antitrust Law was passed. None of them deals with Certified Public Accountants and their regulation by

the State Board of Accountancy. Moreover, at that time it was expressly pointed out to the Senate Judiciary Committee that it might be appropriate to include some exemptions for professions and occupations regulated under Title 32. However, the Legislature chose to include no exemptions regarding regulation under Title 32. While it is possible to find an implied repeal of an antitrust statute, they are uncommon and "strongly disfavored". See Otter Tail Power Co. v. United States [1973-1 TRADE CASES ¶74-373], 410 U.S. 366, 93 S. Ct. 1022 (1973). Moreover, in this particular case an implied repeal is not even theoretically possible since the Arizona Antitrust Law was passed subsequent to the enactment of A.R.S. §32-703(A) and the promulgation of Rule R4-1-56.E.6. Thus, in light of the legislative history regarding the recent passage of the Arizona Antitrust Law it is clear that the Arizona Legislature

did not intend that there be any exemption from the Antitrust Law because of Rule R4-1-56.E.6 or any other regulation by the State Board of Accountancy. This is thus a second reason supporting the conclusion that Rule R4-1-56.E.6 is unlawful and void.

[Absence of Immunity]

In summary, we feel that, as a result of the decision by the United States Supreme Court in the Goldfarb case and the action by the Arizona Legislature in enacting the Arizona Antitrust Law, Rule R4-1-56.E.6 would provide no immunity for private individuals from prosecution under both the federal and state antitrust laws and is therefore unlawful and void. In light of our conclusion we advise and recommend that you proceed as quickly as possible to repeal Rule R4-1-56.E.6.

Sincerely,

Bruce E. Babbit
The Attorney General

* * * *

RESPONDENTS' EXHIBIT NO. 12

(1)

ARIZONA LEGAL SERVICES
ANSWERS ABOUT ALS
BYLAWS AND PARTICIPATING
ATTORNEY RULES

* * * *

(2)

ATTORNEY'S INFORMATION MANUAL

PREPAID LEGAL SERVICES PROGRAM

CONFIDENTAL

* * * *

(3)

WHAT IS THE ARIZONA LEGAL SERVICES
PREPAID AND GROUP LEGAL SERVICES PLAN?

ALS Prepaid and Group Legal Services Plan is Arizona's Prepaid Legal Expense Insurance Program--an open panel, free-choice-of-attorney prepaid legal insurance program.

Arizona Legal Services, Inc. (ALS) is a non-profit corporation created, sponsored and initially funded by the Arizona

State Bar. The Board of Directors is composed, at this time, of members of the State Bar who were elected to the Board by members of the State Bar's Group and Prepaid Legal Committee. As the program develops, provision has been made in the corporate charter for lay people to serve on the Board of Directors also.

ALS Prepaid and Group Legal Services Plan is the product of three years of research and developmental work by the Arizona State Bar's Committee on Prepaid Legal Services and other interested and dedicated members of the bar. A good deal of work and research has also been contributed by Midwest Mutual, who is underwriting the program.

ALS Prepaid and Group Legal Services Plan is the legal profession's response to a pressing public need. People in the middle and lower-middle income groups--approximately 70% of our population--are not

getting lawyer's services when and to the extent they should. Sometimes this is because they cannot afford these services; sometimes because they think they cannot afford the services; sometimes because they do not even know that they have a legal problem or that a lawyer should help them.

ALS Prepaid and Group Legal Services Plan is a comprehensive program of insurance service and education to meet this need. The program is underwritten by Midwest Mutual Insurance Company, a Best's A+ rated nonassessable mutual insurance company, which has independently done substantial developmental work on logal (sic) cost insurance.

ALS Prepaid and Group Legal Services Plan will be issued to qualified groups and in the name of Midwest, policies insuring group members (and their dependents if they wish) against the costs of covered legal services. ALS will then provide the

group members a panel of "Participating Attorneys" who will furnish the covered legal services, plus related educational and administrative services.

WHAT ARE "PARTICIPATING ATTORNEYS"?

Participating Attorneys are those attorneys who agree to provide the services covered under the policies of legal costs insurance underwritten by Midwest Mutual and issued through Arizona Legal Services, Inc., and to accept payment under those policies as payment in full. Each insured will be free to select any Participating Attorney they wish. A list of Participating Attorneys will be provided to representatives of insured groups, and Arizona Legal Services, Inc. will operate a program for insureds who do not have or do not know a Participating Attorney from whom the insured is free to select the Participating Attorney of his choice.

(4)WHO CAN BE AN ARIZONA LEGAL

SERVICES, INC. PARTICIPATING ATTORNEY

*Any active member of the Arizona State Bar who meets the requirements and agrees to the terms of the ALS Participating Attorney Rules, policies and procedures can be an ALS Participating Attorney.

*The requirements to become an ALS Participating Attorney include the following:

--Agreement to the methods and rates of payment for covered services as from time to time established by ALS:

--Maintaining an office for the full or part-time private practice of law within Arizona;

--Agreement to continue as a Participating Attorney for one year from the date of enrollment;

--Agreement to provide services to ALS insureds--subject to the attorney's right to reject a client on any reasonable grounds.

*The requirements to become a Participating Attorney are contained in the ALS

Participating Attorney Rules, which accompany this information.

WHY SHOULD YOU BE A PARTICIPATING ATTORNEY?

*Because the public needs your help. Studies have shown that people in the middle and lower-middle income groups are not receiving lawyer's services when and to the extent they should. This is largely because of cost or fear of cost. People do not budget for unexpected legal problems. They do not obtain essential legal advice or representation before they get in trouble or before their legal problems become severe and beyond their economic capabilities. Prepaid legal services, and your participation will meet and serve their now unmet needs.

*Because the legal profession needs your help, and because the Bar must provide a better method of delivering legal services to more people. Middle and lower-

middle income people, through labor unions, consumer groups and other associations, as well as individually, are becoming increasingly aware of the necessity for better delivery of legal services. They are becoming increasingly concerned about this problem and are requesting--in many cases now demanding--that the legal profession take the lead in providing a solution. There is increasing evidence that prepaid legal services in some form, or possibly other solutions which do not involve lawyers at all, are inevitable. It is in the best interest of both the public and the legal profession, it is imperative, that the profession take the lead in making certain that essential legal services are readily available to all the public, in accordance with basic ethical precepts.

*Because ALS needs your help. If ALS is to succeed as Arizona's open panel, free-choice-of-attorney program it is essential

that a very substantial majority of our private practitioners become Participating Attorneys.

(5) *Because it can directly benefit you.

ALS Prepaid and Group Legal Services Plan is the way to bring you together with an untapped and potentially vast source of clients. As ALS grows, you and other Arizona lawyers will be able to provide increasingly essential legal services to a growing number of middle and lower-middle income Arizonans. The payment for your services will be "guaranteed" subject to the policy benefits and methods of payment discussed below. This can mean elimination of "uncollectables" and no more time-consuming and expensive collection problems. Even for your existing clients, if as they become ALS insureds, you will be able to provide legal services which they could not previously afford or which you could

not provide on an economic basis.

HOW DO YOU ENROLL AS AN
ALS PARTICIPATING ATTORNEY

After you have reviewed the materials provided, please complete the enclosed application form and submit it to Arizona Legal Services, Inc., P. O. Box 7283, Phoenix, Arizona 85011.

There is no charge to become an ALS Participating Attorney.

HOW WILL THE ALS PROGRAM WORK?

Concurrent with ALS's issuance of an ALS/Midwest insurance policy to a qualified group, ALS will enter into a "Direct Service Contract" with the group. Under that Contract, ALS will furnish to the insured group members its panel of Participating Attorneys--the attorneys who have agreed to provide the covered legal services at no cost to the insureds (beyond the premiums already paid by or for them). The individual insureds will be free to select from

among those Participating Attorneys. A periodically up-dated list of Participating Attorneys will be provided to designated representatives of the insured groups, and ALS will operate a referral program for insureds who do not know or have a Participating Attorney. In addition, ALS will develop and provide educational materials and services designed to promote "preventive law" and the responsible use of coverage.

Participating Attorneys who provide covered services will be paid directly by ALS in amounts not exceeding the maximum amounts set forth in the policy. Under the terms of ALS's agreement with Midwest Mutual during any twelve month period the insurance company will pay out for claims up to and including eighty percent of earned premiums on all policies in effect during that period. Participating Attorneys will be obligated to provide the

covered services during that period; but to protect those who provide covered services late in a period, and to protect against incurred but unreported claims, all Participating Attorneys will be paid in two stages. Initially, upon submission of claims, each attorney will be paid 60% of his fee. The balance will be deposited in an Arizona bank and shortly after the end of a period that balance will be paid together with the interest earned thereon. If, however, claims have exceeded eighty percent of earned premiums then the second distribution will be reduced so that all Participating Attorneys who provided services will bear the risk of excess claims on a pro-rata basis.

* * * *

(14)

PARTICIPATING ATTORNEY RULES

These Participating Attorney Rules (hereinafter referred to as Rules), adopted

on November 8, 1974, by the Board of Directors of ARIZONA LEGAL SERVICES, INC. (hereinafter referred to as ALS), are as follows:

* * * *

(15)

SECTION 3. ACCEPTANCE AND REJECTION OF CLIENT; WITHDRAWAL FROM REPRESENTATION

A participating attorney shall accept each insured, who requests his services or is referred to him by ALS as a client. He may, however, reject an insured on any reasonable grounds, but shall not reject any insured seeking his services by reason of amount of fees to which he may be entitled under the terms of the program.

If a participating attorney rejects an insured or withdraws from further representation of an insured, he shall promptly report in writing to ALS (on a form to be furnished by ALS) his reasons for such a rejection or withdrawal. If that insured indicates a desire to be referred

to another attorney, the participating attorney shall endeavor to refer such insured to another participating attorney willing to serve the insured; however, with respect to rejection only, the participating attorney may instead immediately request of ALS, by telephone, that such insured be referred to another participating attorney pursuant to the ALS referral program.

* * * *

(16)

SECTION 5. PAYMENT.

Each participating attorney shall accept payment for covered services provided to an insured according to such methods and at such rates as the Board of Directors of ALS may from time to time establish, and shall accept such payment as payment in full therefor and shall make no additional charges therefor to the insured.

* * * *

(20)

WHAT DOES THE ALS PROGRAM PROVIDE AND PAY?

The maximum amount the Company shall be obligated to pay on behalf of all INSUREDS to ARIZONA LEGAL SERVICES, INC. (hereinafter referred to as ALS), for the benefit of ATTORNEY, for any twelve month period shall be eighty percent (80%) of earned premium.

The amounts that the Company shall be obligated to pay on behalf of an INSURED to ALS for the benefit of ATTORNEY, for each item of each coverage and the maximum amount for each coverage listed below during such twelve month period shall be:

Coverages	Item Charge	Maximum Benefits
A. Non-business bankruptcy		$300
1. Preparing schedules and first meeting of creditors:		
(a) Individual	$225	

Coverages	Item Charge	Maximum Benefits
(b) Joint (Individual and Spouse) additional	$ 75	
B. Marital Proceedings		
1. Dissolution of Marriage, Annulment or Separation		
(a) NAMED INSURED Only		$600
(1) Uncontested dissolution, annulment or separate maintenance without Order to Show Cause and Exclusive of Property Settlement Agreement	$250	
(2) Original Order to Show Cause	$100	
(3) Any other Order to Show Cause or Motion, or defense thereof (not exceeding two such matters)	$100 each	
(4) Property Settlement (not exceeding four (4) hours)	$150	

Coverages	Item Charge	Maximum Benefits
(5) Contested dissolution, Annulment or separate maintenance--same as "Civil Actions" this schedule		
(b) For spouse's legal fees if family plan	$300*	$300*
or		
2. Defense of Motion to modify dissolution, annulment or separate maintenance decree		$ 40 per hour, not to exceed $300

*Indemnity - this sum is available to spouse for attorneys fees, but attorney is not restricted to charging this amount. Additional fees, if any, would be charged directly to spouse and would not be covered under this program.

C. Court Adoption Proceeding		$500
1. Agency Adoption	$150	

Coverage	Item Charge	Maximum Benefits
2. Step-parent Acoption	$150	
3. Obtain Consent-additional	$75	
4. Nonconsent Adoption-additional	$150	
5. Independent Adoption	$200	
6. Contested-same as "Civil Actions" this schedule		
D. Guardianship and Conservatorship		
Same as "Civil Actions" this schedule		
E. Juvenile Court Proceedings		
(Preparation, negotiation and court appearance)	$100	$200
F. Habeas Corpus Court Proceedings		$200
(22)		
G. Defense of Felony Charges		$1,250

Coverages	Item Charge	Maximum Benefits
1. Appearance on Felony Charge and Preliminary Hearing Only	$ 235	
2. Felony disposition:		
(a) Arraignment--half day, and plea negotiations	$ 325	
OR		
(b) Arraignment; preparation; and trial up to and including 4 days	$1,100	
3. Probation and Sentence only	$ 200	
H. Defense of Charge of Driving While Intoxicated		$500
1. Misdemeanor Arraignment	$ 100	
2. Misdemeanor Disposition:		
(a) Plea negotiations and dispotition	$ 150	
OR		
(b) Trial preparation; and trial up		

Coverage	Item Charge	Maximum Benefits
to and including 4 days (including de novo appeal to Superior Court)	$ 500	
I. Defense of Misdemeanor Charges Involving Violation of Motor Vehicle Traffic Statutes		
(Same as Schedule H above)		
J. Defense of Misdemeanor Charges Except Traffic Violations, Disturbing the Peace and Intoxication		
(Same as Schedule H above)		
(23)		
K. Defense of Civil Action except Use of SELF PROPELLED VEHICLE		$1,000
1. Pleading		
Preparation, filing and appearances on Demurrer or Motion; preparation of Answer, Response, Counterclaim	$ 40 per hour up to $250	

Coverage	Item Charge	Maximum Benefits
2. Preparation (Plus pleading above)		
Filing and serving interrogatories; answering interrogatories; depositions; pre-trial or settlement conferences; preparation for trial	$ 40 per hour up to $650	
3. Trial up to and including four days (plus pleading and preparation above)	$ 40 per hour for pleading and preparation; $125 per one-half day for Trial; up to $1,000	
L. Legal Advice, Negotiations and Simple Document Preparation	$ 20 per one-half hour	$ 160
M. Major Trial		
1. Homicide or Conspiracy	$100 per one-half day	$7,500
OR		
2. All other	$125 per one-half day	$2,500

* * * *

RESPONDENTS EXHIBIT NO. 17

CASES OPENED AFTER ADVERTISING

Domestic Relations	35
Bankruptcy	16
Name Change	5
Adoption	4
Personal Injury	4
Real Estate	2
Wills	2
Collection	1
Probate	1
Miscellaneous	5
TOTAL	75

CASES OPENED DUE TO ADVERTISING

Bankruptcy	10
Adoption	4
Name Change	4
Personal Injury	2
Wills	1

Miscellaneous	5
TOTAL	24
Cases opened after advertising	75
Less Domestic Relations cases	35
TOTAL	40

24 cases out of 40 cases opened were due as a result of Advertising, or 60%.

* * * *

STIPULATION FOR ADDITION TO THE RECORD
(Filed April 23, 1976)

The parties stipulate that if an appropriate member of the Arizona Republic were called as a witness, the testimony would be that the Sunday circulation of the Republic outside the State of Arizona is at least 2,000 copies. This datum of fact may be added to the record without objection by the Complainant, who waives cross-examination.

Respectfully submitted this 8th day

of April, 1976.

Lewis and Roca
By Orme Lewis
John R. Frank
Attorneys for The
State Bar of Arizona

William C. Canby, Jr.
Attorney for Respondents

* * * *

SPECIAL LOCAL ADMINISTRATIVE COMMITTEE

OF THE

STATE BAR OF ARIZONA

FOR

DISTRICT NO. 5

In the Matter of a Member of The State Bar of Arizona	)	
JOHN R. BATES and VAN O'STEEN,	)	No. 76-1-S16
Respondents.	)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW - ADMINISTRATIVE COMMITTEE
(Filed April 8, 1976)

This matter having come on for full and final hearing on April 7, 1976, before the Special Administrative Committee of Ivan Robinette, Carl W. Divelbiss, and

Philip E. von Ammon, Chairman, and the matter having been heard, evidence having been taken, and briefs having been submitted, it is now determined and recommended by the Committee as follows:

FINDINGS OF FACT

The Respondents, John R. Bates and Van O'Steen, did, in fact, cause an advertisement for their law office to be published in a Phoenix newspaper, as charged in the Formal Complaint and as admitted in the Answer.

CONCLUSIONS OF LAW

The act of the Respondents violates Disciplinary Rule 2-101(B).

RECOMMENDATIONS

It is the recommendation of the committee that each of the Respondents be suspended from the practice of law for not less than six (6) months.

DONE by the Chairman for and on behalf of the committee (2) and with the concur-

rence of the members of the committee, this 8th day of April, 1976.

By Philip E. von Ammon
Chairman

* * * *

SPECIAL LOCAL ADMINISTRATIVE COMMITTEE

OF THE

STATE BAR OF ARIZONA

FOR

DISTRICT NO: 4A

In the Matter of a Member of the State Bar of Arizona	No. 76-1-S16

RESPONDENTS' OBJECTIONS TO FINDINGS AND CONCLUSIONS OF ADMINISTRATIVE COMMITTEE
(Filed April 23, 1976)

1. Pursuant to Rule 35(c)(4) of the Rules of the Supreme Court of Arizona, Respondents object to the recommendation of the administrative committee entered in the above matter on April 8, 1976. The objection is based upon the contention that Disciplinary Rule 2-101(B) and these proceed-

ings are invalid for reasons advanced by Respondents in the records of this proceeding. Objection is further made to the penalty recommended by the administrative committee.

2. Pursuant to Rule 36(b) of the Supreme Court of Arizona, Respondents request permission to appear by their attorney before the Board of Governors and be heard on matters relating to the recommended penalty in this proceeding.

3. Pursuant to Rule 33(d)(1), Respondents waive the privacy of these proceedings and request that these proceedings from their inception be considered a matter of public record.

Respectfully submitted this 23rd day of April, 1976.

By: William C. Canby, Jr.
Attorney for Respondents

This original document delivered this 23rd day of April, 1976 to Philip von

Ammon, Esq. Copy of the same delivered this 23rd day of April, 1976 to John P. Frank, Esq.

By: Van O'Steen

* * * *

BEFORE THE BOARD OF GOVERNORS

OF THE

STATE BAR OF ARIZONA

In the Matter of a Member of The State Bar of Arizona	)	
JOHN R. BATES and VAN O'STEEN, Respondents.	)	No. 76-1-S16

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS
(Filed April 30, 1976)

This matter having come on for full and final hearing on April 7, 1976 before the Special Administrative Committee of Ivan Robinette, Carl W. Divelbiss, and Philip E. von Ammon, Chairman, and the matter having been heard, evidence having been taken, and briefs having been submitted,

and the Board of Governors having reviewed the above matter on April 28, 1976, it is now determined and recommended by the Board as follows:

FINDINGS OF FACT

The Respondents, John R. Bates and Van O'Steen, did in fact cause an advertisement for their law office to be published in a Phoenix newspaper, as charged in the Formal Complaint and as admitted in the Answer.

CONCLUSIONS OF LAW

The act of the Respondents violates Disciplinary Rule 2-101(B).

RECOMMENDATIONS

The act of the Respondents was on one hand a deliberate and knowing violation of the Rule, but on the other hand was undertaken as an earnest challenge to the validity of a rule they conscientiously believe to be invalid. We therefore recommend a penalty of a one-week suspension

from the (2) practice of law for each of them, the weeks to run consecutively and not simultaneously, so as to avoid the closing down of their practice.

We further recommend that the enforcement of this discipline be suspended until 30 days after a final decision has been made concerning the validity of the rule in the highest court to which it is presented.

The foregoing Findings of Fact, Conclusions of Law, and Recommendations are issued by the Board of Governors this 30th day of April, 1976, pursuant to Rule 36(d) of the Rules of the Supreme Court of the State of Arizona.

By: Mark I. Harrison,
President
State Bar of Arizona

* * * *

SPECIAL LOCAL ADMINISTRATIVE COMMITTEE

OF THE

STATE BAR OF ARIZONA

FOR

DISTRICT NO. 4A

In the Matter of a Member Of the State Bar of Arizona JOHN R. BATES and VAN O'STEEN, Respondents.	)	No. 76-1-S16

RESPONDENTS' OBJECTION TO RECOMMENDATION OF BOARD OF GOVERNORS
(Filed May 3, 1976)

Pursuant to Arizona Supreme Court Rule 36(d), Respondents BATES and O'STEEN object to the recommendation of the Board of Governors of the State Bar of Arizona entered in these proceedings on April 30, 1976.

Respectfully submitted this 3rd day of May, 1976.

By: William C. Canby, Jr.
Attorney for Respondents

This original document delivered this 3rd day of May, 1976, to the Board of Governors of the State Bar of Arizona, 234 North Central Avenue, Phoenix, AZ and a

copy delivered this 3rd day of May, 1976 to John Frank, Esq., Lewis & Roca, 100 West Washington, Phoenix, AZ.

By: Van O'Steen

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OPINION OF THE SUPREME COURT OF ARIZONA

The opinion of the Supreme Court of Arizona may be found in the Jurisdictional Statement beginning at page 1a.

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NOTICE OF APPEAL

The notice of appeal may be found in the Jurisdictional Statement at page 19a.